MANAGEMENT INFORMATION SERVICE

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PROCEDURES IN ADMINISTRATIVE HEARINGS

When are administrative actions subject to appeal and hearings, what types of hearings are held by cities, and what guides should be followed in conducting hearings?

Development of administrative programs for land use zoning, issuance of building permits, regulation of sanitation and industrial waste, and administration of civil service has produced fields of administrative action in which hearings and appeals form important phases. Much less attention has been given thus far to study and analysis of administrative appeals and hearings procedures in local government than in state and national government. Municipal government has been more inclined to stress the informality of administrative procedures.

While informality is always a merit in local government, formality of procedure becomes exceedingly important where personal and property rights are concerned. In those administrative programs that involve governmental regulation and law enforcement, it is necessary to give attention to the properness of formal proceedings. Clearly defined and fairly conducted proceedings in the conduct of hearings provide a good method of selling activities to the public and give a good vehicle for public relations.

When Needed. Larger local governments are likely to have somewhat more formal organization for the conduct of hearings because of the volume of transactions. At the same time they are more likely to have an opportunity to develop specialized positions for conducting administrative hearings. In small and medium-size cities the number of appeals from decisions of administrative officers is apt to be relatively small. In smaller cities, municipal officers, employees, and citizens are often well acquainted personally also. Consequently it has been assumed in many instances that the smaller city has less reason to be concerned with the detail of administrative proceedings.

The need for attention to administrative procedures, however, varies more with the program than with the size of the city. Some cities have been permitted to enter more extensively into such regulatory programs as zoning, building regulation, and sanitation, than others. Types of administrative activity that involve administrative rule-making and the hearing of complaints and appeal have been widely adopted by cities in the United States.

Administrative hearings are likely to be necessary where an administrative officer or a board is given authority by the city charter or by general state law to: (a) make and amend rules that will affect either the citizens or the city employees generally, (b) authorize limited variations or substitutions from standards set forth in an ordinance, charter, or statute, (c) grant or withhold a permit to engage in a certain type of activity that has been regulated by law. Administrative hearings are necessary also where a series of personal rights have been recognized by law as in the case of civil service.

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Among the types of municipal administrative processes that often involve administrative hearings are: zoning variations and conditional use permits; licensing of certain types of businesses such as dance halls, private detective agencies, pawn shops, and the like; granting or withholding building permits, and the authorization of materials or methods not strictly covered within the terms of the building code. Some larger cities have undertaken to protect their sewer systems from the corrosive effects of certain industrial wastes by requiring establishments to obtain an industrial waste permit. Such permits may be granted or withheld, depending upon the effectiveness of the plant's treatment and disposal facilities.

The air pollution control district in the Los Angeles metropolitan area typifies a similar type of regulation and enforcement procedure. All establishments where smoke, dust, or gases are projected into the atmosphere must have a permit to operate. Violation of the air pollution law may bring a revocation of the permit. Requests from manufacturing establishments for variances, or demand from the district's enforcement staff that corrective or control equipment be installed, must be reviewed by a hearing board.

Two other types of control programs developed in the Los Angeles metropolitan area in recent years demonstrate the need and use of hearing requirements. All operators of trash and refuse dumps are required to obtain permits, and to obtain and continue to hold a permit the operator must conform to certain standards set by local ordinance to protect the health and safety of the community. Operators of hog farms where city garbage is fed to hogs must likewise obtain permits. In both instances, hearings before an administrative body are required as part of the normal procedure.

Personnel Hearings. For many years administrative hearings have been an integral part of civil service administration. In the first instance, most civil service commissions or personnel boards are authorized and required to adopt and to amend rules governing a great many phases of personnel work. This administrative rule-making has been referred to by the courts as the quasi-legislative function of administrative boards or officers. Such rule-making fills in details within the framework of legislative policy laid down either by the charter or by general law. Just as a city council, in performing policy-making or legislative duties, must give the citizens of the community an opportunity to express their views upon legislation under consideration, so must administrative bodies like personnel boards hold an open hearing before administrative rules are adopted or changed.

A second phase of administrative hearings, in connection with civil service administration, has been identified generally with hearings for disciplinary action involving dismissal or demotion of employees who have achieved a tenure status. The responsibility of a civil service commission or hearing board varies in these matters, depending upon local charters and laws, and hence the type of hearing procedure followed varies. Some commissions have full authority to reinstate an employee if charges are not substantiated, other commissions have only authority to conduct a public hearing and to recommend an action, but lack directive power. In some cities, police and fire employees do not come before a general civil service commission, but have a board of rights constituted from among uniformed personnel within the department.

Administrative hearings in personnel administration, however, are no longer confined to disciplinary actions. Appeal procedures are now to be found wherein a person taking an examination may appeal from the scoring of the examination, or an employee may appeal from the classification of his position or from the efficiency rating given by a department head. In some instances, involuntary transfers may be appealed.

Personnel administration in many jurisdictions attempts to restrict entrance into public employment with a view to screening out the less well qualified. Such policies of necessity raise additional instances in which individual citizens will appeal decisions of administrative officers. Many local jurisdictions will not employ a person who has been convicted of certain offenses. Other jurisdictions will not employ an applicant who has been discharged by another governmental unit or private employer for bad conduct or inefficient service.

More recently some local governments have established physical standards for entrance into public employment and require a physical and medical examination conducted by a public medical officer. The Los Angeles County Civil Service Commission has established a medical review board composed of three physicians nominated by the local medical association, which reviews the medical records of all applicants rejected by the medical examiner. The board reports its findings and recommendations to the civil service commission which takes final action. Standards of physical and medical fitness have been established for various categories of jobs. These standards have been adopted by the commission after receiving advice from medical men and administrative officers. Findings of the medical examiner are made in accordance with those standards.

The work of the medical review board, then, is to determine if a variance from the standard may be permitted without admitting a job applicant who may have a progressive ailment that will incapacitate him or make his performance of the job dangerous to himself or others. Where there is doubt the board refers the job applicant to a specialist for further examination and report to the board. Appeals concerning policy may be taken to the civil service commission. In practice the commission accepts the findings and recommendations of the review board in medical matters.

Different Types of Hearings. Several distinctions should be made in administrative hearings for purposes of clarity. Some hearings, such as those involving the undertaking of a paving project, may have as their chief merit the creation of good public relations between the city administration and the public. Formality of hearing procedure is not significant in this instance. So long as there is a showing of evidence to support undertaking the project and to support the methods proposed, the administrator or board is probably legally justified in proceeding. Where state law or local ordinance require a hearing and specify the procedure to be followed in instituting proceedings for a public improvement, where special assessments are involved, a more formal course of action is required, of course.

Another type of hearing might be called the "internal" review procedure. The employee appealing his efficiency rating or the classification of his position may not be defending a legal right in the sense that he may ultimately take the matter to court for review of administrative action. There is probably no necessity either for a full public hearing in such cases. Yet there are many reasons why a definite, well-understood review procedure should be established so that any suspicion of arbitrary action may be removed.

At the same time, the home builder who disagrees with the field inspector or with the plan checker who refuses a building permit, probably should have some means of seeking review before higher authority. Neither the interests of justice nor of efficient administrative operation demand, however, that he be given a public hearing with formal rules of procedure controlling. An office conference with a chief inspector or department head may well meet both demands.

In matters of the sort discussed above, hearings need not be of the adversary type, although there is every possibility that a sharp difference of opinion is involved. However, the objective is less that of proving or disproving a "case" than

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it is to explore facts and explore the application of a policy. In terms of procedure, then, the object is to obtain fully the point of view of the employee who feels that his performance has been rated too low or his assignments have been given too low a classification. At the same time the object must also be to determine that the judgment made has been made consistent with established practices and policies. An inquiry into both points is likely to have the effect of informing both employees and management.

Some local jurisdictions have found a satisfactory procedure for handling appeals from performance ratings by appointing either a special committee or a regular standing committee composed of higher level officers from departments other than the one in which the appeal arises. This committee first reviews the documentary evidence, then hears an oral statement from the employee. Later the rating authority is consulted. Every attempt is made, however, to establish the point that the committee is an inquiry body rather than a tribunal sitting in judgment before two adversaries. In such circumstances the findings and recommendations of the committee are accepted with better grace by both parties.

Public hearings, particularly those involving adversary actions, conducted according to fairly specified procedures, are essential in a growing number of local administrative processes. Where rules that establish or affect rights are to be determined, formal procedures are required. Bar associations and others have been concerned with administrative legislation and administrative semi-judicial activities for some time. The volume of administrative rules and regulations, and the number of local agencies that now have some authority to issue rules make it necessary that local governments put forth real effort to prevent abuses. Likewise, where an administrator or administrative board acts in a semi-judicial capacity, interpreting administrative rules and regulations, determining rights, granting or withholding permission to undertake activity of economic importance, there is an equal necessity for giving careful attention to procedures.

In both the quasi-legislative and quasi-judicial capacities, administrators are subject to having their decisions scrutinized by the courts. Establishment of procedures and the creation of appeal machinery often accomplishes the twin purpose or strengthening public confidence in the administrative process and or reducing the number of times the administrator may be successfully challenged in the courts.

Suggested Procedures in Hearings

Notice of Hearings is Essential. An essential point of procedure in every public administrative hearing is the giving of proper notice to all parties that have an interest in the hearing. Where rules and regulations are to be enacted or changed, this means notifying the public at large, or at least making the information reasonably available. In some instances, specific legal requirements insist that notice be published either in newspapers of general circulation or in printed notices posted at a specified number of places. Usually, though, posting of notices on public bulletin boards in the city hall suffices for administrative hearings that may interest the public at large.

Where specific individuals or groups of individuals have an interest in the proceedings, notice must be given them directly. In civil service disciplinary actions, notice of the action must usually be given both orally and in writing, the latter being served upon the disciplined employee either in person or by registered letter. The notice must state the charges and give notice either of the time and place of the hearing or indicate that the employee has the privilege of a hearing. In the latter instance the date and place of the hearing must be made known to the appellant soon after he has requested a hearing.

Hearings in zoning matters usually require that individual notice in writing be given each property owner affected by the action. Changes of zone, if granted, are likely to affect the interests of property owners for some distance away. Hence, it is often required that notice of such hearings must be sent all owners of property within a specified number of feet of the parcel of property concerning which the hearing is to be conducted.

In many matters that affect only a single individual, less formal notification methods may suffice. For example, where a civil service or personnel department disqualifies an applicant because of a police record, an individual letter or post card informing the individual that he has a certain number of days in which to appear and protest or submit evidence favorable to his cause may be sufficient. Notice of proceedings and information regarding the rules that pertain are all that are normally required.

In routine civil service procedure, persons taking examinations may be notified by post card or letter of the score made on tests, and at the same time they may be notified that within a specified period of time they may appear and check their papers and file any protest on test items or scoring. Inasmuch as most of this type of administrative review is part of a continuous process, no specific dates for individual hearings need be set. For the convenience both of the administration and of the individual it is acceptable procedure that a period be set, within which an appeal must be requested.

In quasi-judicial administrative hearings, where a person is appealing from an adverse administrative decision, the appellant usually is required to file notice of appeal within a specified time, often ten days from the date of the original action or decision. A hearing date will be set thereafter by the hearing agency. Administrative matters almost always involve action, and hence there is every reason to require that any appeal be filed soon rather than delay for a long period of time.

The dismissed employee is most likely to show good faith if an appeal is filed within ten days of the action. The applicant for a zoning variance has a clearer case that the matter requires action if he appeals an administrative decision immediately rather than six months later. Furthermore, administrative departments cannot properly be expected to keep all cases open and active, with the department prepared to defend its decisions at any time within a long period.

Although not always required by law, it is sound administration that persons who have been informed of a hearing be informed regarding pertinent rules, ordinances, and the like. In some instances local governments make it a practice to send a copy of the ordinance or administrative rules involved. Reference to such sources may be made in the notice, however. In a great many administrative actions it is not necessary that the person involved have an attorney to represent his interests; it is desirable to all concerned that it not be necessary for a citizen to have legal counsel to guide him in dealings with administrative bodies or officers. Therefore, time can be saved by providing pertinent information to the person involved in the action. Often administrative hearing procedures are delayed or complicated by such lack of definite information.

Who Should Conduct the Hearing? An increasing emphasis upon formality in the semi-judicial hearings has raised the question in some quarters as to who should actually conduct the hearings. Planning boards and civil service commissions, composed of part-time citizen commissioners, have most often conducted the hearings in their fields. A manager or a public works officer may conduct other hearings. Matters of evidence, proper examination of witnesses, the orderly presentation of documents and witnesses, etc. are special problems, however, that lie within the attorney's

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field. Should the city attorney's office conduct all hearings, or should the work be assigned to specialists, providing of course that there is a sufficient volume of work to warrant such specialization?

Certainly the advice and counsel of the city attorney is needed in conducting hearings. However, there is an important element of special knowledge in other fields involved. In civil service and personnel there is much expert knowledge regarding personnel practices and policies that a law school or a legal practice does not produce. Zoning, building methods and materials, sanitation, air and water pollution, business regulation, all have their special subject matter in addition to presenting questions of evidence and legal procedures. In many types of administrative hearings, such as civil service, citizen boards have been introduced to give representation to the public interest over and beyond technical competence in certain subject matter fields. The city attorney, then, should be in a position of advising the person conducting the hearing, rather than actually conducting the hearing himself. At the same time, the city attorney or his deputy may properly conduct much of the questioning to bring out pertinent information.

Where the person appealing to an administrative officer or board has an attorney to represent him, it becomes even more desirable that the city attorney take part in the proceedings. Notices and the preliminary papers prepared for an administrative hearing should be checked by the city's legal representative to ensure that rules and ordinances have been complied with and that all procedural requirements have been met. During the conduct of a hearing, if it is an adversary hearing, a legal advisor should be available to advise upon matters of admissability of evidence and the like.

Some local governments, in conducting smoke abatement or water pollution regulatory programs, follow the practice of conducting preliminary hearings in an effort to reach an understanding with business or industrial establishments. These hearings are often conducted by the agency's legal officer, although technicians and higher administrative officers of the agency will be present to give technical or policy information. These are not adversary hearings, however. They are employed often in an attempt to prevent a situation from developing to the point where formal complaint and prosecution is necessary.

In some instances, city charters and administrative rules permit a local administrative board to assign the hearing of cases to a single commissioner rather than requiring hearing before a full board in all instances.[1] In larger local governments where the volume of work is sufficient, this procedure offers some attractions. It reduces the demands upon the time of individual part-time board members, yet it insures that the hearing will be conducted with the same attentiveness as though a full board membership were present. In such circumstances the single commissioner conducts the hearing to develop a complete record of testimony and evidence for consideration and decision-making. Thereafter, the commissioner reviews the evidence and prepares a summary of recommendations and conclusions, which are presented to the entire board for consideration. Procedures vary somewhat at this point.

Some jurisdictions direct that the decision of the single commissioner who has heard the case shall be final unless an appeal is taken to the full board. In the latter case the board would review the record and the findings of the commissioner who heard the case and would arrive at a decision without rehearing. In other jurisdictions the commissioner who heard the case reports to the full commission and the latter decides in all instances. Both methods have approximately equal validity.

In some larger cities there is discussion relative to employing a special hearing examiner who will conduct administrative hearings and ensure that testimony and evidence is properly recorded and carefully developed procedures are employed. The

examiner's role becomes very similar to that of the commissioner discussed above, except that the examiner is an administrative employee with special skills and training. He does not represent the citizen-public interest in the way that a commissioner or board member might. In most instances the examiner would recommend findings and conclusions to the commission for decision. In this instance the commission would be responsible for reviewing the record of testimony and the evidence and arriving at a decision with the aid of the examiner's recommendations.

In personnel matters it is often desirable for an administrator to appoint a hearing board to conduct the actual hearing in which the evidence will be developed and facts determined. This procedure can be established without formal rules. However, if it is at all likely that it will be desirable to take testimony under oath or to require production of documents or witnesses, it would be necessary to establish such authority by ordinance or charter. A hearing board acting as an agency for an administrator, but with the administrator giving the final decision, is used in some instances. If the ordinance or charter so provides, the hearing agency could be made advisory to the administrator. It would be most useful, however, for the hearing board to be authorized to make recommendations and to comment upon the evidence and testimony given. Final decision could be given to the administrator. So long as there is evidence to support his findings and decision, the decision of the administrator could be made final.

Testimony at a Hearing. The courts have quite generally conceded that administrative hearings need not be as formal and restrictive in matters of evidence as are court proceedings. In an adversary hearing before an administrative body much of what would be considered to be hearsay in a court of law may properly be admitted. Administrative hearings, however, should be held as closely as possible to specific issues and to matters that clearly lie within the hearing agency's powers. There is no need for administrative hearings to become a sounding board for discussion of local government problems in general.

In hearings involving disciplinary actions in civil service there is often a tendency to digress from the issues involved to a discussion of administrative policies, organization, and supervision practices. In zoning hearings there is some tendency to attempt to open the whole matter of zoning policies of a city. Such efforts, while occasionally pertinent to the issues involved in the case, are more often delaying and obscuring tactics.

Carefully and properly drawn notices of hearing or statements of the matter coming on for hearing are highly important and can be most useful in guiding the hearing officer or board in determining admissability of testimony. Because administrative hearings operate in a situation involving considerably more informality than does a court, the pressure and temptation is often great to depart from the strict issues of the hearing.

One very great advantage to an administrative hearing is that the officer or board can search out the facts without having to employ all the intricacies of a court of law. Nevertheless, there is every necessity to distinguish between informality and haziness. A clear specification of the issues involved in the hearing makes it easier for the party appealing to make a case or defend himself of charges, and it makes the work of those conducting the hearing more concise and less filled with tension.

An important element in administrative hearings, particularly in those conducted by citizen-commissioners, is the time element. A citizen commission cannot be expected to devote several consecutive days to a single hearing. There is the greatest need, then, for the issues to be clearly brought out, for pertinent evidence to be

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introduced as quickly as possible, commensurate with full protection of personal and property rights involved, and for the hearing to be as brief as possible. Equally important in considering the length of administrative hearings is the amount of administrative staff time of employees involved in assisting in the conduct of a hearing, in giving testimony, and in preparing documentary data. The ends of justice are not helped by unduly lengthy hearing proceedings.

Recording Hearings Transactions. Local administration has come very reluctantly to accept the idea that a record should be kept of hearings. Often it seems to be an added expense and something that adds to the paper work. In quasi-judicial hearings where decisions may be appealed to the courts, the keeping of a record or testimony and evidence is a necessity, unless the courts are to retry the whole matter and substitute their judgment entirely for that of the administrator. In other types of hearings, too, a complete record is important. It is useful in the orderly conduct of the hearing and it is helpful to higher administrators or to the city council in case the controversy continues.

For many types of hearings that may not lead to court action, a sound recording has been found to be practical and helpful. It has many advantages: witnesses' exact wording and vocal expressions are reproduced, staff time for recording and transcribing a hearing is eliminated, and after an appropriate time the record may be cleared and the tape or wire used again. Personnel agencies have found tape or wire recordings an invaluable means for recording transactions that may be subject to review within a brief period of time. They can be equally helpful in other hearing situations. The courts, however, have been reluctant to accept recordings as a proper "record" of proceedings that may be appealed to them.

Adversary hearings that may be appealed later to the law courts should have a verbatim record of testimony and oral argument. This record is important, not only to serve as the basis of review by the courts, but also as an important aid to the officer or board deciding the case at the administrative level. The keeping of such a record often does much to establish and maintain public confidence in the administrative hearing procedure.

Many administrative officers find it good protection to have a stenographer present to make a record of conversations involving informal administrative reviews or hearings, whether those hearings are final or are preliminary to more formal hearings before a board. Many times it is not necessary to transcribe these records, but they may be kept on file and read back or transcribed if needed at a later time to clarify decisions made or facts presented. In instances where appeals to administrative boards or commissions are provided for, a stenographic record of office interviews or informal hearings becomes important evidence and assists the administrator and the reviewing board.

Where a stenographer is not available and recording devices are either not available or not thought to be necessary, a summary digest of the discussion and of conclusions reached may suffice and will be helpful. In such instances, however, all parties present should have an opportunity to read and sign the summary digest, indicating that it represents their understanding of the proceedings.

Records of Hearings. Finally, decisions or findings of administrators made as result of a public hearing should be put in writing and a copy be sent to the interested parties. Certainly the public relations value of this cannot be overemphasized. Furthermore, in all proceedings that lead to some administrative action or to directions given to persons, a written record is very important lest the decision be nullified by misunderstanding and haziness a short while later. Last, but far from least, a written record helps the administrator in following a consistent

policy. When changes of policy are to be made, they will then be made as result of decision, not from accident or faulty recollection of what has gone before.

Records of hearings should be kept as a permanent record of the agency. Included in such records should be the statement of notice or statement of issues and charges made in the original action, written replies and other correspondence pertinent to the transactions, a list of witnesses, a list of documentary evidence, and a statement of the findings and decision. If a transcript of the hearing was taken, either a copy of that should be kept in file, or if kept elsewhere the location of it noted. While there is no noticeable tendency on the part of administrative agencies to develop a real case law from their decisions, records of hearings are important matters of public record and should be carefully preserved.

Finality of Administrative Decisions.

Need for Standards. A number of local ordinances specify that decisions made by administrators or boards under proceedings authorized in the ordinance shall be final if there is evidence to support the decision. In such instances the courts are most likely to regard this as binding if the ordinance sets forth policy directions and defines the limits of administrative action. The courts will then be most likely to confine their interest to considering if the ordinance itself is defective or if the administrator has exceeded his powers as defined in the ordinance.

The courts are not so likely to review the decisions of local administrators if the administrator has been concerned with determinations of fact and has made a decision within well-defined limits as set forth by the ordinance. The courts seem to be inclined to review administrative judgments chiefly where standards have not been clearly defined, and therefore too broad a basis of judgment has been given the administrator.

Bases for Administrative Standards. When administering regulations that involve personal rights or property rights, it is necessary to set forth the general guidelines or standards in the ordinance or general law. The courts are not inclined to look with favor upon complete delegation of authority to administrative officers. For example, in zoning administration, where an administrative officer is authorized to grant or deny variances, it would be necessary to set forth in the ordinance conditions that would govern and limit the discretion of the administrator. Such conditions might include facts that would need to be disclosed by investigation before the administrator could act. This would then involve, in the eyes of the courts, legislative instructions to the administrator. The administrator would in turn be operating to determine facts and to exercise discretion within a well-defined area that had been marked out by the council as the policy-making body.

Having set forth policy conditions in the ordinance, it is customary to delegate to the administrator the authority to make and publish rules governing the conduct of hearings or inquiries or rules that will carry out details of the general standards set forth in the ordinance. Procedural rules and detail facts are more likely to change and hence require periodic amendment or revision, whereas the basic policy conditions should not need revision as frequently.

Review of Administrative Decisions. More and more, administrative officers are given authority by ordinance, charter, and administrative rules, to make decisions that affect citizens' livelihood or property rights. Personnel officers may be authorized to deny a person the opportunity to take a particular examination because of certain rules of eligibility. A zoning administrator may grant or deny a zoning variance. An administrative officer may deny a building permit, a rubbish disposal permit, or a pawnshop license. Such actions involve interpretations of rules,

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determination of facts, and exercise of judgment. Pressure of public opinion and the threat of legal action to challenge the exercise of administrative discretion makes it desirable to establish some review machinery within the administrative organization to review this type of decision making.

In these quasi-judicial actions in larger local governments, where there is sufficient volume of work to warrant it, establishment of an administrative appeal board to review the decisions of an administrator upon request quiets most of the objections to this type of administrative decision making. One example of such an arrangement is the Los Angeles city system for handling zoning variances. A zoning administrator has been given authority by the charter to grant modifications within certain limits of discretion which have been specified by the charter and by ordinance. The administrator holds regular public hearings upon receipts of applications for zone modifications made by property owners desiring a variance.

Any person aggrieved by rulings of this administrator, or any officer or board of the city government, may appeal his findings and decision to a board of zoning appeals. This board is composed of three persons appointed by the mayor for fixed overlapping terms. Members of the board serve part-time and are compensated on a per diem rate. An attorney and an architect have regularly been included in the board's membership.

Appeals to this board must be made within 10 days of the zoning administrator's decision, and the board must then set a date for hearing and notify interested parties. The board may not reverse or modify a decision regarding conditional use of land or a zone variance unless it has given notice of hearing to all owners of property within 300 feet of the land parcel under consideration. Hearings must be public and decisions of the board are made in writing. In the largest number of instances the administrator has been upheld. The procedure developed here has done much to establish public confidence in the administrative process.

While establishment of administrative review boards or boards of appeal does not eliminate entirely the possibility of an administrative decision being appealed successfully to the law courts, it has been found to reduce the number of such appeals. The courts generally seem not to be desirous of mixing in the detail of administration. They are more apt to listen sympathetically to an appeal that presents a problem of personal or property rights in a new, unsettled program of administrative regulation. If a citizen or employee has had his day before administrative officers or administrative boards where rules of conduct that appear broadly familiar to the legal profession and the judiciary were employed, the courts are less impelled to inject their machinery into the process.

More careful attention to establishment of hearings or appeal machinery, careful consideration of procedure, recording of the transactions and decisions, does much to establish and hold public confidence in administrative decision-making. It provides good protection to the administrator against the charge of arbitrariness and favoritism.

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